IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

105+245 **CM-14838-CWP-2023 in/&**
CWP-15963-2021
Date of Decision : October 30, 2023

Saroj Devi **...Petitioner**

Versus

State of Haryana and others **... Respondents**

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Amandeep Rana, Advocate for the petitioner.

Mr. Tapan Yadav, DAG, Haryana

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Harsimran Singh Sethi, J. (Oral)

CM-14838-CWP-2023

As prayed for, application is allowed.

Affidavit of the petitioner filed in compliance of order dated 07.07.2023 passed by a Coordinate Bench of this Court is taken on record.

CWP-15963-2021

1. In the present petition, the claim of the petitioner is that she is entitled for the grant of benefit of interest on the delayed release of the pensionary benefits as well as other benefits, which were released to the petitioner after her retirement.

2. Learned counsel for the petitioner submits that the petitioner retired from service on attaining the age of superannuation on 31.05.2021

but the pensionary benefits were released to her much after the date of her retirement. He further submits that the benefit of second ACP was granted to the petitioner after her retirement and it was only due to the said fact, the pensionary benefits were not being released to her as her service book was not complete by the time she retired from service.

3. Learned State counsel has not been able to rebut the fact that the pensionary benefits have been released to the petitioner in the year 2022/ 2023 as the case may be, though, the petitioner retired from service on 31.05.2021. It is also not a disputed fact that the last drawn pay of the petitioner was only ascertained after the grant of benefit of ACP, which benefit of ACP fixation was done on 04.02.2022 i.e. after the retirement of the petitioner.

4. I have heard learned counsel for the parties and have gone through the record with their able assistance.

5. From the pleadings, it is clear that the respondent-department fixed the last drawn pay of the petitioner after her retirement and her service book was not complete at the time of retirement due to which fact the pensionary benefits of the petitioner could not be released and after grant of the second ACP, last drawn pay of the petitioner was ascertained and fixed and pensionary benefits were released to her thereafter. Details of the released payments have been given by the petitioner in her affidavit, from which details, it is clear that pensionary beneftis have been released to the petitioner much after her retirement.

6. Learned counsel for the respondent-State submits that the petitioner did not submit the pension papers for 10 months.

7. It may be noticed that once, the service book of the petitioner was not complete and her second ACP was released after her retirement, the question whether the petitioner failed to fill the form or not will not disentitle the petitioner for the grant of benefit of interest on the delayed release of payments as the respondents were at fault so as to ascertain her last drawn pay required to ascertain the pensionary benefits at the time of retirement. It is only after retirement, pay of the petitioner was fixed after which, pensionary benefits were released which fact shows that it was the department which was on default for delayed release of pensionary benefits.

8. It is a settled principle of law settled by the Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468***, that an employee is entitled for the release of his/her pensionary benefits within a period of two months of his/her retirement in case there is no impediment, failing which, an employee will be entitled for the grant of benefit of interest on the said delayed release of payments. The relevant paragraph of said judgment is as under:-

> *"Since a government employee on his retirement becomes immediately entitled to pension and other benefits in terms of the Pension Rules, a duty is simultaneously cast on the State to ensure the disbursement of pension and other benefits to the retirer in proper time. As to what is proper time will depend on the facts and circumstances of each case but normally it would not exceed two months front the date of retirement which time limit has been laid down by the Apex Court in M. Padmanabhan Nair's case (supra). If the State commits any default in the performance of its duty thereby denying to the retiree the benefit of the immediate use of his money, there is no gainsaying the fact that he gets a right to be compensated and, in our opinion, the only way to compensate him is to pay him interest for the period of delay on the amount as was due to him on the date of his retirement."*

9. Further, a Coordinate Bench of this Court in of ***J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355*****,** has held that where an amount belonging to an employee, has been retained and used by the respondents, upon the release of the said amount, on a later date, the interest has to be given. The relevant paragraph of ***J.S. Cheema's case (supra)*** is as under: -

> *"The jurisprudential basis for grant of interest is the fact that one person's money has been used by somebody else. It is in that sense rent for the usage of money. If the user is compounded by any negligence on the part of the person with whom the money is lying it may result in higher rate because then it can also include the component of damages (in the form of interest). In the circumstances, even if there is no negligence on the part of the State it cannot be denied that money which rightly belonged to the petitioner was in the custody of the State and was being used by it."*

10. Keeping in view the facts and circumstances noticed hereinbefore, the case of the petitioner is squarely covered by the settled principle of law noticed hereinabove for the grant of benefit of interest on the delayed release of pensionary benefits admissible to her. Hence, the petitioner is held entitled for the grant of interest @ 6% per annum on the payments, which have been released to her after a delay of two months of her retirement from the date the amount became due till the actual payments have been be released to her.

11. Let the computation of interest be done by the respondents within a period of two months from the date of receipt of copy of this order and the amount so calculated shall be paid to the petitioner within a period of four weeks thereafter.

12. The writ petition is allowed in above terms.

13. Civil Miscellaneous application pending, if any is also disposed of.

October 30, 2023 **(HARSIMRAN SINGH SETHI)**
aarti **JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No